

CAUSE NO. **2010CI - 08899**

STATE OF TEXAS,
Plaintiff

v.

MARIA L. OLIVARRI,
Defendant

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IN THE DISTRICT COURT

37th
JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

EX PARTE TEMPORARY RESTRAINING ORDER

Plaintiff, STATE OF TEXAS, has filed its Original Petition in this cause seeking a Temporary Injunction and Permanent Injunction against Defendant Maria L. Olivarri. In the same Petition, Plaintiff has presented its request for an Ex Parte Temporary Restraining Order. The Court FINDS that Defendant appears to be violating §§ 17.46(a) and (b) of the Texas Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COMM. CODE § 17.41 *et seq.* ("DTPA"). It appears from facts set forth in Plaintiff's Original Petition, and the exhibits and sworn affidavits attached thereto, that unless the Defendant is immediately restrained from the acts and practices prohibited below, Defendant will continue to commit such acts and practices before notice can be given and a hearing can be held on Plaintiff State of Texas' request for a Temporary Injunction. Furthermore, not only will the Defendant continue to use deceptive tactics and misrepresentations in the course of trade and commerce, such injury will be irreparable, because the Defendant's continued violations of the DTPA, may well cause more harm to Texas consumers.

1. **IT IS THEREFORE ORDERED** that Defendant Maria L. Olivarri, and her officers, agents, servants, employees, attorneys, and any other persons or entities in active concert or participation with her, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, **shall be restrained** from engaging in the following acts or practices, to wit:

- A. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials relating to the business of Defendant currently or hereafter in Defendant's possession, custody or control except in response to further orders or subpoenas in this cause;
- B. Advertising services for training in any first aid procedures, or certification in said training;
- C. Holding herself out to the public as being accredited, certified, or authorized by the American Red Cross to provide training in any form of first aid, life saving, or Cardio-Pulmonary Resuscitation (CPR); or
- D. Providing first aid training, or selling first aid certification cards to include but not limited to: Basic Cardiac life Support; Infant Safety Training; First Aid Training; and American Heart Association CPR training, in Texas.

2. **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that, as used in this Order, the following terms are defined as follows:

- A) "Consumer" means an individual, person, sole proprietorship, partnership, corporation, firm, or entity of any kind, however organized, including this state, or a subdivision or agency of this state who seeks or acquires, by purchase or lease, any goods or services;
- B) "Defendant" means Defendant Maria L. Olivarri, her successors, assigns, officers, agents, subcontractors, servants, employees, corporations, and any other persons in active concert or participation with her;

- C) "Defendant's businesses" means any other sole proprietorship, firm, partnership, corporation, association, joint venture or other group, or business entity of any kind or form, however organized that provides or sells first aid training to any consumer; and
- D) "Representing", "selling", "marketing", "promoting", "distributing", "advertising" or "soliciting" means any type of contact with a consumer or entity for the purpose of requesting, persuading, or seeking any type of contribution, sponsorship, compensation, or anything of value from said consumer or entity for any reason whatsoever, including use of the Internet.

3. **IT IS FURTHER ORDERED** that Plaintiff STATE OF TEXAS shall be granted leave to take telephonic, video, written, and other depositions with Requests for Production of any party, person or witness prior to any scheduled Temporary Injunction hearing and prior to Defendant's answer date upon reasonable shortened notice to Defendant or her attorneys, if known, and that Plaintiff State of Texas shall be granted leave to file any corresponding Business Records Affidavits with reasonable, shortened notice.

4. **IT IS FURTHER ORDERED** that Defendant in this cause be and hereby is commanded forthwith to comply with this Order from the date of entry until and to the fourteenth (14) day after entry, or until further order of this Court, whichever is less.

5. The Clerk of the above-entitled Court **SHALL FORTHWITH** issue an Ex Parte Temporary Restraining Order in conformity with the law and the terms of this Order. This Order shall be effective without the execution and filing of a bond, as Plaintiff State of Texas is exempt from such bond pursuant to TEX. BUS. & COM. CODE § 17.47(b).

6. Hearing on Plaintiff State of Texas' Application for Temporary Injunction is hereby set for the 10 day of June, 2010, at 9 o'clock a.m.

SIGNED this 27 day of May, 2010 at 8:25 o'clock a. m.

/s/ Solomon Cassel III
JUDGE PRESIDING